

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF : Austin G. SMITH et al.
FOR : Expression of Heterologous Genes According
5 to a Targeted Expression Profile
SERIAL NO. : 09/348,469
FILED : 07/07/1999
EXAMINER : Peter Paras, Jr.
ART UNIT : 1632
10 LAST OFFICE ACTION : February 6, 2003
ATTORNEY DOCKET NO. : 78870/32932

Cleveland, Ohio 44115-1475
August 6, 2003

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PRELIMINARY AMENDMENT

Mail Stop RCE
20 Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

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This amendment is in response to the Final Office Action dated February 6, 2003.
An amendment was submitted on July 6, 2003, however the Examiner responded with an
Advisory Action mailed July 25, 2003 that the Amendment would not be entered because
the proposed amendments to the claims raise new issues that require further consideration
and search. The time to reply with a three month extension expires August 6, 2003, and this
30 last Office Action was a Final Rejection. Accordingly, applicant is submitting a Request for
Continued Examination (RCE) and the requisite fee (\$750.00), as well as a petition for a
three month extension and a fee of \$520.00, as a two month extension for \$410.00 was paid
on July 6, 2003. If there are any additional fees necessitated by this communication, the

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Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0902 of TUCKER ELLIS & WEST, LLP, referencing the Docket No. (78870/32932).

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Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 14 of this paper.